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Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

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(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 32514-PCT-INI/PCT	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP00/05737	International filing date (day/month/year) 21 June 2000 (21.06.00)	Priority date (day/month/year) 21 June 1999 (21.06.99)
International Patent Classification (IPC) or national classification and IPC A61K6/083		
Applicant 3M ESPE AG		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>1</u> sheets.</p>	
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input checked="" type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>	

Date of submission of the demand 18 January 2001 (18.01.01)	Date of completion of this report 21 September 2001 (21.09.2001)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP00/05737

I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
 pages 1-12, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☒ the claims:
 pages 2-10, as originally filed
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages 1,11, filed with the letter of 07 September 2001 (07.09.2001)
- ☐ the drawings:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

 International application No.
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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
1. Statement

Novelty (N)	Claims	1-11	YES
	Claims		NO
Inventive step (IS)	Claims	1-11	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-11	YES
	Claims		NO

2. Citations and explanations

The following documents have been considered in the course of this process:

D1: EP-A-0 732 098 (DENTSPLY DETREY GMBH) 18 September 1996
(1996-09-18)

D2: EP-A-0 374 824 (ESPE STIFTUNG) 27 June 1990 (1990-06-27), mentioned
in the application

D3: EP-A-0 059 451 (ESPE PHARM PRAEP) 8 September 1982 (1982-09-08)

D4: WP-A-96/19179 (DENTSPLY INT INC) 27 June 1996 (1996-06-27)

D5: EP-A-0 508 095 (BAYER AG) 14 October 1992 (1992-10-14)

A composition such as that defined in the amended Claim 1 is not disclosed in the above mentioned documents. In particular, two pastes, in which components (a), (b) and (c) are present in the one, component (d) is present in the other paste and components (e) and (f) are optionally present in one or the other paste, are not disclosed.

The problem addressed by the present application was that of making available a polymerizable dental compound that remains stabile during storage and is easy to process. In order to produce dental compounds of this type that remain stabile during storage, document D1 requires three components that are separate from each other, while document D2 must use a component in powder form. There is therefore nothing to suggest to a person skilled in the art that the problem addressed be solved with the claimed composition.

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VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

Contrary to PCT Rule 5.1(a)(ii), the description does not cite document D1 or indicate the relevant prior art disclosed therein.